

## Small Business Administration

## § 102.3

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AUTHORITY: 5 U.S.C. 552 and 552a; 31 U.S.C. 1 *et seq.* and 67 *et seq.*; 44 U.S.C. 3501 *et seq.*; E.O. 12600, 3 CFR, 1987 Comp., p. 235.

SOURCE: 61 FR 2673, Jan. 29, 1996, unless otherwise noted.

### Subpart A—Disclosure of Information

SOURCE: 68 FR 59092, Oct. 14, 2003, unless otherwise noted.

#### § 102.1 General provisions.

This subpart describes the procedures that the U.S. Small Business Administration (SBA) follows for responding to requests made under the Freedom of Information Act (FOIA) (5 U.S.C. 552).

#### § 102.2 Public reading rooms.

(a) SBA maintains a public reading room in the Headquarters Reference Library at 409 3rd St., SW., Suite 5000,

Washington, DC 20416 where you may read and copy the following:

(1) Final SBA opinions and orders issued by the Office of Hearings and Appeals in adjudicating a case,

(2) Official non-privileged policy statements, opinions, or interpretations,

(3) Standard operating procedures affecting members of the public,

(4) Records SBA has released in response to previous FOIA requests which, because of their subject matter, SBA determines are likely to be requested again, and

(5) An index of the records referred to under paragraph (a)(4) of this section.

(b) The records described in paragraph (a) of this section are available in the SBA Online Reading Room at <http://www.sba.gov/library/>.

(c) Reading room records created on or after November 1, 1996 are available electronically.

#### § 102.3 Requirements pertaining to the submission of requests.

(a) You may make a request for SBA records by writing directly to the program or field office that maintains the records, or to the Freedom of Information/Privacy Acts (FOI/PA) Office by mail to 409 3rd St., SW., Washington, DC 20416 or fax to 202-205-7059 or e-mail to [foia@sba.gov](mailto:foia@sba.gov). The office receiving your request will forward it to the correct office. The correct office will consider your request to be complete only when you:

(1) Describe the records sought in enough detail for an Agency employee to locate the records with a reasonable amount of effort;

(2) Agree to pay applicable fees pursuant to § 102.6, unless you seek a waiver of fees; and

(3) Make an advance payment if either the correct office estimates the fees will exceed \$250 or you owe for past FOIA fees. If you owe past due FOIA fees, you must pay the estimated amount, plus any past due charges and interest.

(b) If you make a request on behalf of another person for information pertaining to that person, your request must include an authorization signed by the latter, allowing SBA to release such information to you.

(c) To make a Privacy Act request for records about yourself, you must follow the procedures detailed in § 102.34(b) of Subpart B.

**§ 102.4 Timing of responses to requests.**

(a) *In general.* Subject to paragraphs (b) and (c) of this section, once the correct office receives your complete request, that office must respond within 20 working days unless that office notifies you in writing that the time is extended by an additional 10 working days for one or more of the following reasons:

(1) The need to search for and collect the requested records from field facilities or other establishments separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(b) *Additional time.* Where an extension of more than ten working days will be necessary due to exceptional circumstances, the correct office will give the requester an opportunity to modify the request so it may be processed within the usual time limits in paragraph (a) of this section, or to arrange an alternative time period for processing the request or a modified request.

(c) *Expedited processing.* (1) SBA will give expedited processing to requests and appeals upon written request, if one of the following conditions is met:

(i) You demonstrate someone's life or physical safety will be in imminent danger if SBA does not expedite its response to your request; or

(ii) You are a news media representative (as defined in § 102.6(b)(8)) who demonstrates an urgent need to inform the public about an actual or alleged Federal government activity.

(2) You must provide a written statement, certified to be true and correct

to the best of your knowledge and belief, explaining in detail one of these circumstances of "compelling need" and submit it to the correct office. Within 10 working days of its receipt of such a statement, or sooner, if SBA concludes that circumstances warrant, that office will notify you of its decision whether or not to grant expedited processing. If expedited processing is granted, the request shall be given priority and processed as soon as practicable. If an expedited processing request is denied, an appeal may be submitted which will be acted on expeditiously.

(d) *Multiple requests.* Where an office believes that multiple requests submitted by a requester, or by a group of collaborating requesters, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they will be aggregated for processing.

**§ 102.5 Responses to requests.**

Within the time limits described in § 102.4, SBA will respond to your request in writing. SBA's response will do one or more of the following:

(a) Advise you that SBA is releasing the requested documents;

(b) Explain why SBA has decided not to give you all or some of the records requested, citing specific FOIA exemptions where applicable and noting the number of pages withheld (except where noting the number of pages withheld would harm an interest protected by an exemption), and explain how to appeal that decision;

(c) Provide a cost estimate or bill you for the actual fee, less any advance payment you have made. SBA will not provide any records until payment in full is received; and/or

(d) Advise you that SBA will refer your request for records generated by another Federal agency to that agency for proper processing.

**§ 102.6 Fees.**

(a) *In general.* SBA will charge fees for processing requests as outlined in this section. Fees must be paid by check or money order made payable to SBA.